

March 17, 2023

## TITLE 2. STATE ALLOCATION BOARD

### NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO  
AMEND VARIOUS REGULATION SECTIONS,  
ALONG WITH TWO ASSOCIATED FORMS, TITLE 2,  
CALIFORNIA CODE OF REGULATIONS, RELATING TO  
THE CALIFORNIA PRESCHOOL, TRANSITIONAL KINDERGARTEN AND  
FULL-DAY KINDERGARTEN FACILITIES GRANT PROGRAM

#### PROPOSED AMENDMENTS TO THE FOLLOWING REGULATION SECTIONS:

- 1860.2, 1860.3, 1860.4, 1860.5, 1860.5.1, 1860.6, 1860.14, 1860.15, AND 1860.19

#### PROPOSED AMENDMENTS TO THE FOLLOWING FORMS:

- Form SAB 70-01, *Application for Funding*, (Rev. 09/22), which is incorporated by reference and referenced in Regulation Section 1860.2
- Form SAB 70-03, *Expenditure Report*, (Rev. 09/22), which is incorporated by reference and referenced in Regulation Section 1860.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to adopt and amend the above-referenced regulation sections, as well as three associated forms and the grant agreement templates, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

#### AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17280, 17375, 17375(a), 17375(b), 17375(b)(2), 17375(b)(2)(A), 17375(h) of the Education Code; 16304 and 16304.1 of the Government Code. The proposals interpret and make specific reference Sections 17070.15, 17075.10, 17280, 17375, 17375(a), 17375(b), 17375(b)(3), 17375(b)(4), 17375(h) of the Education Code; 1771.5, Labor Code.

#### INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

At its meeting on September 21, 2022, the SAB adopted on an emergency basis proposed regulatory amendments, as well as amendments to two associated forms. Initially, the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program

(Program) was created through Assembly Bill (AB) 1808, Chapter 32, Statutes of 2018, and included a one-time General Fund appropriation in the amount of \$100 million for the sole purpose of providing classrooms for full-day kindergarten programs. Since that time, however, several bills became law that appropriated, rescinded, and re-appropriated general fund dollars. The latest bill, AB 181, Chapter 52, Statutes of 2022, was signed by the Governor on June 30, 2022, and made \$100 million from the General Fund available to the SAB for apportioning one-time grants to school districts that lack the facilities to provide full-day California preschool, transitional kindergarten and kindergarten programs. In addition to the \$100 million, the Legislature has declared its intent to appropriate an additional \$550 million from the General Fund in the 2023/24 fiscal year to the SAB for the same purposes. The bill allows California community colleges to apply for one-time grants for preschool classrooms provided they meet the eligibility criteria.

### Funds Impacted

- General Fund appropriation in the amount of \$100 million for the 2022/2023 fiscal year.

Attached to this Notice is the specific regulatory language of the proposed regulations and two associated forms. The proposed regulations and the two associated forms will be accessible and can be viewed on OPSC's website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program, FDK Pending Regulatory Changes." Copies of the proposed regulations and the two associated forms will be mailed to any person requesting this information by using OPSC's contact information set forth below in this Notice. The proposed regulations implement the Program's Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.8, Regulations relating to the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program.

### Background and Problem Being Resolved

As mentioned above, AB 1808, Chapter 32, Statutes of 2018 [Committee on Budget. Education Finance: education omnibus trailer bill] was originally signed by the Governor on June 27, 2018 and included a one-time General Fund appropriation in the amount of \$100 million for the sole purpose of providing full-day kindergarten classrooms. On July 1, 2019, the Governor signed Senate Bill (SB) 75, Chapter 51, Statutes of 2019, into law [the Education Finance: Education Omnibus Trailer Bill]. This bill appropriated an additional \$300 million from the General Fund to the SAB for the 2019/20 fiscal year. School districts that wished to convert part-day kindergarten programs to full-day kindergarten programs, and for those school districts lacking the facilities to provide full-day kindergarten instruction could apply for these one-time grants to construct new school facilities or retrofit existing school facilities. On June 29, 2020, the Governor signed SB 98, Chapter 24, Statutes of 2020, which rescinded the \$300 million in additional program funding previously appropriated in SB 75 but maintained Program provisions such as the local matching share for school districts that were converting from a part-day program to a full-day program and allowed school districts to retain project savings. AB 130, Chapter 44, Statutes of 2021, provided \$490 million from the General Fund for the 2021/22 fiscal year to the SAB to provide one-time grants. School districts that lacked the facilities to provide full-day California preschool, full-day transitional kindergarten, and/or full-day kindergarten programs could apply for these one-time grants to construct new school facilities and retrofit existing school facilities. The latest bill, AB 181, Chapter 52, Statutes of 2022, provides \$100 million in the 2022/23 fiscal

year to the SAB to continue providing one-time grants for the construction of new school facilities and the retrofitting of existing school facilities for preschool, transitional kindergarten, and kindergarten pupils in full-day programs. It is the Legislature's intent to appropriate an additional \$550 million from the General Fund in the 2023/24 fiscal year for the same one-time purposes. The bill also expands the Program to allow California community colleges to apply for one-time grants for preschool classrooms provided they meet the eligibility criteria.

The problem being resolved is not a problem, but rather a funding opportunity in which the Program expands to community colleges to construct new classrooms or retrofit existing classrooms to house full-day California state preschool programs. In addition to the new Program funding, there are clarifications to Program requirements for the inclusion of community colleges, as well as changes to the dates for the fourth filing round. Beginning February 1, 2023 through March 2, 2023 applicants will be able to submit applications for the Program. OPSC and the California Department of Education (CDE) will work collaboratively, on a project-by-project basis, to determine if an application should be limited to a retrofit project, or whether the applicant can choose between funding to retrofit existing facilities or to build new facilities. This will ensure a prudent use of general fund dollars, integrity of school projects, and prevents the funding from being expended to unnecessarily construct new classrooms.

OPSC performed a search on whether the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that AB 181, Chapter 52, Statutes of 2022, [the Committee on Budget: Education Finance: Education Omnibus Budget Trailer Bill], was created to expand, clarify, and make modifications to the existing Program. There are no other programs or regulations in existence that provide one-time grants to school districts, or include California community colleges, for the purposes of constructing new school facilities or retrofitting existing school facilities in order to house full-day California preschool, full-day transitional kindergarten and full-day kindergarten programs. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the two associated forms will enhance applicants' awareness when partnering with the State and will help to maintain Program integrity.

#### *Anticipated Benefits of the Proposed Regulations*

There are benefits associated with the proposed amendments. School districts will benefit in order to provide kindergarten classrooms if they lack the facilities and have the need to operate full-day transitional kindergarten and full-day kindergarten programs. School districts, county offices of education, and community colleges will also benefit in order to build new or expand existing classrooms to house full-day California state preschool programs. In addition, the State of California will benefit from the proposed regulations as the regulations may generate the need for school construction-related industries to expand their businesses, or in some cases may create new businesses, based on the demand on these industries when general fund dollars are released to school districts, county offices of education, and community colleges to complete their projects.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that AB 181, Chapter 52, Statutes of 2022, [the Committee on Budget: Education Finance: Education Omnibus

Budget Trailer Bill], was created to expand, clarify, and make modifications to the existing Program. There are no other programs or regulations in existence that provide one-time grants to school districts, or include California community colleges, for the purposes of constructing new school facilities or retrofitting existing school facilities in order to house full-day California preschool, full-day transitional kindergarten and full-day kindergarten programs. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the two associated forms will enhance applicants' awareness when partnering with the State while defining the responsibilities of funding applicant projects. This will ensure program oversight and expenditure accountability.

The proposed regulations and the two associated forms will not have a negative impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

#### Summary of the Proposed Regulatory Amendments

A summary of the proposed regulatory amendments, including the two associated forms, are as follows:

Existing Regulation Section 1860.2 represents a set of defined words and terms used exclusively for these regulations. These definitions provide clarity to OPSC and school districts on program concepts and requirements. The proposed amendments expand the definition of "School District" by including community college districts that operate a preschool program on behalf of, or in lieu of, a school district or county office of education. This is in alignment with the statute. Two of the Program forms (SAB 70-01 and SAB 70-03) are being revised which changes the revision dates.

Existing Regulation Section 1860.3 sets forth general requirements that all school districts seeking program funding must meet. Specifically, participating school districts are required to complete and file with OPSC the Form SAB 70-01, *Application for Funding*, (which is incorporated by reference), and all required documents as identified in the Specific Instructions section of the Form SAB 70-01. The proposed amendments set forth the statute by which these amendments are being made and sets forth the General Fund appropriation for the expanded Program.

Existing Regulation Section 1860.4 provides general funding guidelines for the program that apply to all applicants that participate in the program. The proposed amendments specify where the funding is being made available [subsection (c) is for the 2022/23 Budget Act and subsection (d) is for the 2023/24 Budget Act] and sets forth the date by which the funding must be encumbered (June 30, 2025 and June 30, 2026, respectively). It is further clarified that any funds returned prior to this date will be returned to the program account, while funds returned after this date will be returned to the General Fund. The encumbered dates of June 30, 2025 and June 30, 2026 are subject to statute, specifically Government Code Sections 16304 and 16304.1.

Existing Regulation Section 1860.5 sets forth eligibility criteria that school districts must meet in order to apply for full-day kindergarten program funding. The proposed amendments set forth

requirements that kindergarten classrooms must meet in order to ensure new construction and/or retrofit funding is used to construct classrooms that match Title 5 requirements. To ensure funding is provided for full-day kindergarten classrooms that can be repurposed if needed, the regulations require newly constructed and retrofit classrooms to be 1,350 square feet, unless an exemption is provided by CDE. In no case may a classroom be less than 1,250 square feet.

Existing Regulation Section 1860.5.1 sets forth eligibility criteria that school districts must meet in order to apply for transitional kindergarten program funding. The proposed amendments set forth requirements that kindergarten classrooms must meet in order to ensure new construction and/or retrofit funding is used to construct classrooms that match Title 5 requirements. To ensure funding is provided for transitional kindergarten classrooms that can be repurposed if needed, the regulations require newly constructed and retrofit classrooms to be 1,350 square feet, unless an exemption is provided by CDE. In no case may a classroom be less than 1,250 square feet.

Existing Regulation Section 1860.6 sets forth the application submittal process, which established two 30-calendar day funding rounds for school districts to request apportionments of available program funds. The proposed amendments change the fourth funding round in subsection (d) from April 1, 2023 and on or before April 30, 2023 to February 1, 2023 and on or before March 2, 2023. This change allows for additional time to review the applications received because there is \$100 million in General Fund allocations from the 2022/23 Budget Act that will have been appropriated to projects in this filing round.

Existing Regulation Section 1860.14 sets forth criteria for school districts applying for financial hardship, as allowed in Education Code Section 17375(b)(2)(A). If a school district is unable to meet the financial requirements for either all or a portion to match their share of the project with the state and can prove a financial hardship, then they may qualify for hardship assistance pursuant to Education Code Section 17075.10. This Section is identical to the financial hardship provisions as defined in the SFP Regulations. OPSC will review financial records of the school district to determine if the school district qualifies for financial hardship. The analysis will include all capital facility accounts, including but not limited to developer fees, Certificates of Participation, federal grants, bond funds either encumbered, unencumbered or authorized but not sold, etc. Any funds that have not been encumbered, either through contracts or otherwise, will be considered available funds for the matching share. The proposed amendment deletes the language in subsection (a)(4) that allows school districts to request financial hardship using "other evidence" as approved by the SAB and adds County Superintendent of Schools to qualify automatically for financial hardship status. This is consistent with Education Code Section 17375(b)(2)(A).

Existing Regulation Section 1860.15 specifies that if the number of Approved Applications received exceeds the funding available for the funding round, then the funding priority will be based on a school district's preference points. Education Code Section 17375(b)(2) states that priority for Program grants will be given to school districts that qualify for financial hardship and/or that have a high population of pupils who are eligible for Free and Reduced Price School Meals (FRPM). This Section creates a system of preference points in order to determine project funding order. A maximum of 80 preference points may be earned in each funding round for each school district. A school district's preference points will be calculated into two categories. Based on a sliding scale currently used in the SFP for the Charter School Facilities Program, a sliding scale was created to determine the percentage of students a school district has eligible for FRPM. Points begin at four points for 60-65 percent of students eligible for FRMP, while 40

points will be earned if 100 percent of students within the school district qualify for FRPM. If a school district has been qualified for financial hardship by OPSC and is unable to contribute a portion or all of its matching share, the school district earns 40 points. The proposed amendments in subsection (b)(1) adds community colleges as part of the funding criteria for the calculation of preference points. This is in alignment with the statute. The stand-alone sentence under subsection (b)(1) has been numbered as (2). This is considered a non-substantive change.

Existing Regulation Section 1860.19 specifies how remaining funding may be used after project completion. Project savings and unexpended funds are different types of remaining funds from Program projects. School districts that are not financial hardship are able to expend their project savings, including interest, that are not needed for the Program project on other high priority capital facility needs of the school district. Any savings not expended within one year of project completion must be returned to the State. School districts that are financial hardship that have any unexpended funds from the Program project, that were not spent on eligible expenditures, and the project was funded from the funding in Section 1860.3(a), must be returned to the State upon completion of the project. Any interest earned on State funds for financial hardship grant funding that is not expended on eligible project expenditures must also be returned to the State to help reduce the financial hardship contribution for that project. A school district is only required to return unexpended funds up to the amount of the financial hardship grant provided by the SAB. The proposed amendment provides that all projects receiving funding under Section 1860.3(b) and 1860.3(c) are not required to return savings, including interest earned on State funds, if expended or encumbered for professional development or instructional materials to build capacity for the implementation of a California State preschool program, transitional kindergarten program, a full-day kindergarten program, or high priority capital outlay purposes identified by the school district.

Existing Form SAB 70-01, *Application for Funding*, (which is incorporated by reference) is used by school districts to apply for program funding. The form also serves as a certification from the district regarding compliance with requirements of the law and Program Regulations. School districts must submit this form during the funding rounds described in Regulation Section 1860.6. OPSC will use this form in order to collect the information necessary to calculate the amount of grants applicable to the project and to determine project funding order. The proposed amendments: 1) page 1, under "Specific Instructions" #1.a. A New Construction Grant, fourth and fifth (new) bullets, as well as #1.c. A Retrofit Grant, fourth and fifth (new) bullets are being added as these are documents the SAB requires in order to support the funding of projects and to efficiently administer the Program; and 2) page 2, #2. School Site Enrollment Data, 5<sup>th</sup> and 7<sup>th</sup> sentences: adding the "T" before K-12 and the "P" before K-12 refers to Transitional Kindergarten and PreK (preschool).

Existing Form SAB 70-03, *Expenditure Report*, (which is incorporated by reference) is used by school districts to report their project savings and unexpended funds. Expenditure reports must be submitted within one year of final fund release or at the completion of the Program project. A final savings report must be submitted within one year of the completion of the project. Financial hardship projects must submit their unexpended funds at the completion of their project. OPSC will use the information provided on this form to ensure that expenditures made by the school districts for Program projects comply with statute and other applicable State requirements pertaining to construction. The proposed amendments: 1) page 1, 2<sup>nd</sup> column, last sentence "through OPSC Online or to" was added to inform applicants that document submittals could be submitted electronically through the OPSC Online system; and 2) page 2, #4. the fourth bullet was struck out and relocated as the last bullet.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area (construction of and/or retrofit of existing school facilities for the sole purpose of providing preschool, transitional kindergarten and kindergarten classrooms), and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB's authority to enact regulations for the Program under Education Code Section 17375(h) and Government Code Section 15503.

#### Statutory Authority and Implementation

Education Code Section 17375(h). The State Allocation Board may adopt regulations to implement this section. Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

#### Determination of Inconsistency or Incompatibility with Existing State Regulations

As mentioned on page 1, the Program was created through AB 1808, Chapter 32, Statutes of 2018, and included a one-time General Fund appropriation in the amount of \$100 million for the sole purpose of providing full-day kindergarten classrooms. Since that time, however, several bills became law that appropriated, rescinded, and re-appropriated general fund dollars. The latest bill, AB 181, Chapter 52, Statutes of 2022, was signed by the Governor on June 30, 2022, and made \$100 million from the General Fund available to the SAB for apportioning one-time grants to school districts that lack the facilities to provide full-day California preschool, transitional kindergarten and kindergarten programs. In addition to the \$100 million, the Legislature has declared its intent to appropriate an additional \$550 million from the General Fund in the 2023/24 fiscal year to the SAB for the same purposes. In addition to the new Program funding, there are clarifications to Program requirements for the inclusion of community colleges, as well as changes to the dates for the fourth filing round. Beginning February 1, 2023 through March 2, 2023 applicants will be able to submit applications for the Program. OPSC and the CDE will work collaboratively, on a project-by-project basis, to determine if an application should be limited to a retrofit project, or whether the applicant can choose between funding to retrofit existing facilities or to build new facilities. This will ensure a prudent use of general fund dollars, integrity of school projects, and prevents the funding from being expended to unnecessarily construct new classrooms.

OPSC performed a search on whether the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that AB 181, Chapter 52, Statutes of 2022, [the Committee on Budget: Education Finance: Education Omnibus Budget Trailer Bill], was created to expand, clarify, and make modifications to the existing Program. There are no other programs or

regulations in existence that provide one-time grants to school districts, or include California community colleges, for the purposes of constructing new school facilities or retrofitting existing school facilities in order to house full-day California preschool, full-day transitional kindergarten and full-day kindergarten programs. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulatory amendments and the two associated forms will enhance applicants' awareness when partnering with the State and will help to maintain Program integrity. This will also ensure program oversight and expenditure accountability.

#### Forms Incorporated by Reference

- Form SAB 70-01, *Application for Funding*, (Rev. 09/22), which is incorporated by reference and referenced in Regulation Section 1860.2
- Form SAB 70-03, *Expenditure Report*, (Rev. 09/22), which is incorporated by reference and referenced in Regulation Section 1860.2

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations, along with two associated forms, do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

#### DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed regulations create no costs to any local agency or school district requiring reimbursement pursuant to Section 17500 et seq., or beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

#### RESULTS OF THE ECONOMIC IMPACT ANALYSIS

##### Impact to Businesses and Jobs in California

The proposed regulations expand the Program to not only include California preschool and transitional kindergarten classrooms in addition to full-day kindergarten classrooms but allows California community colleges to apply for one-time grants for preschool classrooms provided



they meet the eligibility criteria. School districts benefit in order to provide kindergarten classrooms if they lack the facilities and have the need to operate full-day transitional kindergarten and full-day kindergarten programs. School districts and county offices of education benefit in order to build new or expand existing classrooms to house full-day California state preschool programs. Additionally, the proposed regulations may generate the need for school construction-related industries to expand their businesses, or in some cases may create new businesses, based on the demand on these industries when general fund dollars are released to school districts and county offices of education to complete their projects.

The proposed regulations and the two associated forms will not have a negative impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

#### *Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment*

- The proposed regulations promote fairness and/or social equity by providing general fund dollars to those school districts, county offices of education and California community colleges that may be able to construct new facilities or retrofit existing facilities in an effort to provide preschool, transitional kindergarten and/or kindergarten programs.
- The State of California will benefit because its inventory of school facilities will increase due to the expansion of the Program to include California community colleges.
- There are benefits to health, safety, and welfare of California residents (school children and school faculty) because California preschool, transitional kindergarten and kindergarten facilities would be built stronger and safer. There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although the proposed regulations would not directly impact worker's safety, existing law provides for the availability of a skilled labor force. Further, public health and safety would be enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State's environment from the proposed regulations.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.

#### EFFECT ON SMALL BUSINESSES

It has been determined that the proposed regulations will not have a negative impact on small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The proposed regulations expand the Program to include California community colleges for the purposes of constructing new school facilities or retrofitting existing school facilities in order to house full-day California preschool programs

## SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, email or fax must be received at OPSC no later than May 1, 2023. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, email or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 Third Street, 4<sup>th</sup> Floor  
West Sacramento, CA 95605

E-mail Address: [Lisa.Jones@dgs.ca.gov](mailto:Lisa.Jones@dgs.ca.gov)

## AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Lisa Jones at (279) 946-8459. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Chief of Administrative Services, at (279) 946-8463.

## ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

## SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

## RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received they will be added to the rulemaking file. The file is available for public inspection at OPSC during normal working hours. Items 1 through 3 are also available on OPSC's Internet Web site at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, scroll down to "California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program, then "California Preschool, Transitional Kindergarten and FDK Pending Regulatory Changes" and click on the linked documents, such as the 45-day Public Notice, the Initial Statement of Reasons, the proposed regulatory text and the two associated forms.

## ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. No alternatives were considered. Statute requires the implementation of this Program through regulations. If no regulations, the SAB would be in violation of the statute.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be made available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the website listed above.